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No. 73-634

Supreme Court, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1973

CHARLES L. MEYER, PETITIONER

v.

ROBERT C. SEAMANS, JR.,
SECRETARY OF THE AIR FORCE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The petition for a writ of certiorari was not timely filed. The judgment of the court of appeals in this civil suit was entered on June 25, 1973. An application for an extension of time was received by the Court on September 22, 1973,[1] and denied by Mr. Justice Rehnquist on September 24, 1973. The 90-day period provided by 28 U.S.C. 2101(c) for petitioning in civil cases expired on September 24, 1973. The petition was filed on October 9, 1973.

The time limit specified by 28 U.S.C. 2102(c) is jurisdictional, *Toledo Co.* v. *Computing Co.*, 261 U.S. 399, 418.

[1] The application was thus untimely under this Court's Rule 34(2).

It is respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

OCTOBER 1973.

DOJ-1973-10